

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2152

To establish the Independent Commission on Medicare to make recommendations on how to best match the structure of the medicare program with the funding made available for the program by Congress, to provide for expedited consideration in Congress of the Commission's recommendations, and to establish a default process for meeting congressional spending targets for the medicare program if Congress rejects the Commission's recommendations.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 1, 1995

Mr. ENGLISH of Pennsylvania (for himself, Mr. McHALE, Mr. CLINGER, Mr. WELDON of Pennsylvania, and Mr. STEARNS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Commerce, Rules, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish the Independent Commission on Medicare to make recommendations on how to best match the structure of the medicare program with the funding made available for the program by Congress, to provide for expedited consideration in Congress of the Commission's recommendations, and to establish a default process for meeting congressional spending targets for the medicare program if Congress rejects the Commission's recommendations.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Commission to Save  
5 Medicare Act of 1995”.

6               **TITLE I—INDEPENDENT**  
7       **COMMISSION ON MEDICARE**

8       **SEC. 101. ESTABLISHMENT OF COMMISSION.**

9       (a) IN GENERAL.—There is established a commission  
10      to be known as the Independent Commission on Medicare  
11      (in this Act referred to as the “Commission”).

12      (b) MEMBERSHIP.—

13              (1) COMPOSITION.—The Commission shall be  
14      composed of 7 members appointed by the President,  
15      by and with the advice and consent of the Senate.

16              (2) CHAIR.—The President shall designate one  
17      of the members to chair the Commission.

18              (3) QUALIFICATIONS.—The membership of the  
19      Commission shall consist of individuals with national  
20      recognition for expertise in fields related to health  
21      care.

22      (c) TERMS.—

23              (1) IN GENERAL.—Except as provided in para-  
24      graphs (2) and (3), each member of the Commission  
25      shall be appointed for a term of 9 years.

1           (2) TERMS OF INITIAL APPOINTMENT.—As des-  
2           ignated by the President at the time of appointment,  
3           of the members first appointed—

4                   (A) 3 shall be appointed for a term of 3  
5           years; and

6                   (B) 3 shall be appointed for a term of 6  
7           years.

8           (3) VACANCIES.—Any member appointed to fill  
9           a vacancy occurring before the expiration of the  
10          term for which the member's predecessor was ap-  
11          pointed shall be appointed only for the remainder of  
12          that term. A vacancy in the Commission shall be  
13          filled in the manner in which the original appoint-  
14          ment was made.

15          (4) EXCLUSIVE EMPLOYMENT.—During the  
16          term of appointment, members shall serve as em-  
17          ployees of the Federal Government and shall hold no  
18          other employment.

19          (5) COMPENSATION OF BOARD MEMBERS.—  
20          Each member of the Commission (other than the  
21          chair) shall receive an annual salary at the annual  
22          rate payable from time to time for level IV of the  
23          Executive Schedule. The chair of the Commission,  
24          during the period of service as chair, shall receive an

1       annual salary at the annual rate payable from time  
2       to time for level III of the Executive Schedule.

3           (6) REMOVAL.—A member of the Commission  
4       may be removed by the President only for neglect of  
5       duty or malfeasance in office.

6       (d) MEETINGS.—Each meeting of the Commission  
7       shall be open to the public, except that the Commission  
8       may meet in executive session to address matters relating  
9       to personnel and other internal matters of the Commission  
10      unrelated to the duties specified in section 102.

11      (e) STAFF.—

12           (1) IN GENERAL.—The Commission shall ap-  
13      point a Director, who shall be paid at a rate the  
14      Commission considers appropriate. The Director  
15      may appoint and fix the pay of such additional per-  
16      sonnel as the Director (with the approval of the  
17      Chair of the Commission) considers appropriate,  
18      without regard to provisions of title 5, United States  
19      Code, governing appointments in the competitive  
20      service.

21           (2) EXPERTS AND CONSULTANTS.—The Com-  
22      mission may procure temporary and intermittent  
23      services under section 3109(b) of title 5, United  
24      States Code.

1           (3) STAFF OF FEDERAL AGENCIES.—Upon re-  
2       quest of the Director, the head of any Federal de-  
3       partment or agency may detail, on a reimbursable  
4       basis, any of the personnel of that department or  
5       agency to the Commission to assist it in carrying out  
6       its duties under this Act.

7       (f) POWERS.—

8           (1) HEARINGS AND SESSIONS.—The Commis-  
9       sion may, for the purpose of carrying out its duties  
10      under this Act, hold hearings, sit and act at times  
11      and places, take testimony, and receive evidence as  
12      the Commission considers appropriate. The Commis-  
13      sion may administer oaths or affirmations to wit-  
14      nesses appearing before it.

15          (2) POWERS OF MEMBERS AND AGENTS.—Any  
16      member or agent of the Commission may, if author-  
17      ized by the Commission, take any action which the  
18      Commission is authorized to take by this section.

19          (3) OBTAINING OFFICIAL DATA.—The Commis-  
20      sion may secure directly from any department or  
21      agency of the United States information necessary  
22      to enable it to carry out this Act. Upon request of  
23      the Chair of the Commission, the head of that de-  
24      partment or agency shall furnish that information to  
25      the Commission.

1           (4) GIFTS, BEQUESTS, AND DEVISES.—The  
2       Commission may accept, use, and dispose of gifts,  
3       bequests, or devises of services or property, both real  
4       and personal, for the purpose of aiding or facilitat-  
5       ing the work of the Commission. Gifts, bequests, or  
6       devises of money and proceeds from sales of other  
7       property received as gifts, bequests, or devises shall  
8       be deposited in the Treasury and shall be available  
9       for disbursement upon order of the Chair of the  
10      Commission.

11          (5) MAILS.—The Commission may use the  
12      United States mails in the same manner and under  
13      the same conditions as other departments and agen-  
14      cies of the United States.

15          (6) ADMINISTRATIVE SUPPORT SERVICES.—  
16      Upon the request of the Commission, the Adminis-  
17      trator of General Services shall provide to the Com-  
18      mission, on a reimbursable basis, the administrative  
19      support services necessary for the Commission to  
20      carry out its duties under this Act.

21   **SEC. 102. DUTIES OF THE COMMISSION.**

22      (a) IN GENERAL.—The Commission shall—

23          (1) transmit to Congress and the President  
24      during December of each year (beginning with 1995)

1 a report on the aspects of the Medicare program  
2 specified in subsection (b); and

3 (2) transmit to Congress during July of each  
4 year (beginning with 1996) a report containing spe-  
5 cific recommendations on the matters specified in  
6 subsection (c).

7 (b) ASPECTS OF MEDICARE.—

8 (1) IN GENERAL.—The report transmitted pur-  
9 suant to subsection (a)(1) during December of a  
10 year shall include information on the following:

11 (A) The total outlays made under the med-  
12 icare program for each of the 10 most recently  
13 completed fiscal years.

14 (B) Projections of the outlays under such  
15 program for the fiscal year beginning on Octo-  
16 ber 1 of the next calendar year and each of the  
17 4 succeeding fiscal years, on an aggregate and  
18 a per capita basis.

19 (C) Projections of the actuarial value of  
20 the package of benefits provided to medicare  
21 beneficiaries for each of the fiscal years speci-  
22 fied in subparagraph (B), on an aggregate and  
23 a per capita basis.

24 (D) A comparison of each of the projec-  
25 tions made under subparagraph (B) for a fiscal

1 year with the projections made for the year  
2 under subparagraph (C).

3 (E) The health status of medicare bene-  
4 ficiaries, the access of beneficiaries to health  
5 services covered under the medicare program,  
6 and the utilization of such services by bene-  
7 ficiaries.

8 (F) Methods to improve the methodologies  
9 used to determine the payments made under  
10 the medicare program to or on behalf of medi-  
11 care beneficiaries (including the use of risk ad-  
12 justment in the determination of the amount of  
13 such payments) and methods to encourage effi-  
14 ciency and cost-effectiveness in the delivery of  
15 health care services.

16 (G) Such other matters as the Commission  
17 determines to be appropriate.

18 (2) ACTUARIAL VALUE DEFINED.—For pur-  
19 poses of projecting the actuarial value of the pack-  
20 age of benefits provided to medicare beneficiaries  
21 under paragraph (1)(C), the Commission shall deter-  
22 mine actuarial value by measuring the costs of re-  
23 sources used to provide health care services covered  
24 under the medicare program and adjusting such  
25 costs to take into account—



1 (A) inflation in the costs of health care  
2 services and all costs generally;

3 (B) demographic changes in the population  
4 of beneficiaries, including population growth,  
5 age distribution, health status, and access to  
6 care;

7 (C) changes in the mix and intensity of  
8 services provided to beneficiaries and the sites  
9 at which services are furnished;

10 (D) scientific and technological advances;

11 (E) the quality of care provided, including  
12 the effect on quality of the overutilization of  
13 services and other factors;

14 (F) other factors affecting the demand of  
15 beneficiaries for services; and

16 (G) such other factors as the Commission  
17 considers appropriate.

18 (c) RECOMMENDATIONS ON CONTROLLING OUT-  
19 LAYS.—The report transmitted to Congress pursuant to  
20 subsection (a)(2) during July of a year shall include spe-  
21 cific recommendations on changes in the medicare pro-  
22 gram, including changes in eligibility, benefits (including  
23 the mode of delivery of such benefits), cost-sharing, or  
24 payments made to or on behalf of beneficiaries, sufficient  
25 to ensure that total outlays for the program for the fiscal

1 year beginning on the following October 1 do not exceed  
2 the limit established for that fiscal year under section 201,  
3 except that such recommendations may not include  
4 changes relating to the payment of payroll taxes for fi-  
5 nancing the program.

6 **SEC. 103. EXPEDITED CONGRESSIONAL CONSIDERATION**  
7 **OF RECOMMENDATIONS.**

8 (a) IN GENERAL.—The recommendations submitted  
9 by the Commission under section 102(c) for a fiscal year  
10 shall take effect if a joint resolution (described in sub-  
11 section (b)) approving such recommendations is enacted,  
12 in accordance with the provisions of subsection (c), before  
13 the first day of the fiscal year.

14 (b) JOINT RESOLUTION OF APPROVAL.—A joint res-  
15 olution described in this paragraph means only a joint res-  
16 olution which is introduced within the 10-day period be-  
17 ginning on the date on which the Commission submits rec-  
18 ommendations under section 102(c) and—

19 (1) which does not have a preamble;

20 (2) the matter after the resolving clause of  
21 which is as follows: “That Congress approves the  
22 recommendations of the Independent Commission on  
23 Medicare concerning methods to control outlays  
24 under the medicare program for fiscal year  
25 \_\_\_\_\_, as submitted by the Commission on

1       \_\_\_\_\_.”, the first blank space being filled  
2       in with the appropriate fiscal year and the second  
3       blank space being filled in with the appropriate date;  
4       and

5           (3) the title of which is as follows: “Joint reso-  
6       lution approving recommendations of the Independ-  
7       ent Commission on Medicare concerning methods to  
8       control outlays under the medicare program for fis-  
9       cal year \_\_\_\_\_, as submitted by the Commission  
10      on \_\_\_\_\_.”, the first blank space being  
11      filled in with the appropriate fiscal year and the sec-  
12      ond blank space being filled in with the appropriate  
13      date.

14      (c) PROCEDURES FOR CONSIDERATION OF RESOLU-  
15      TION OF APPROVAL.—Subject to subsection (d), the provi-  
16      sions of section 2908 (other than subsection (a)) of the  
17      Defense Base Closure and Realignment Act of 1990 shall  
18      apply to the consideration of a joint resolution described  
19      in subsection (b) in the same manner as such provisions  
20      apply to a joint resolution described in section 2908(a)  
21      of such Act.

22      (d) SPECIAL RULES.—For purposes of applying sub-  
23      section (c) with respect to such provisions—

24           (1) any reference to the Committee on Armed  
25      Services of the House of Representatives shall be

1 deemed a reference to an appropriate committee of  
2 the House of Representatives (specified by the  
3 Speaker of the House of Representatives at the time  
4 of submission of recommendations under subsection  
5 (c)) and any reference to the Committee on Armed  
6 Services of the Senate shall be deemed a reference  
7 to an appropriate committee of the Senate (specified  
8 by the majority leader of the Senate at the time of  
9 submission of recommendations by the Commission  
10 under section 102(c)); and

11 (2) any reference to the date on which the  
12 President transmits a report shall be deemed a ref-  
13 erence to the date on which the Commission submits  
14 recommendations under section 102(c).

15 **SEC. 104. NO TERMINATION OF COMMISSION.**

16 Section 14(a)(2)(B) of the Federal Advisory Commit-  
17 tee Act (5 U.S.C. App.; relating to the termination of advi-  
18 sory committees) shall not apply to the Commission.

19 **TITLE II—CONTROLLING OUT-**  
20 **LAYS UNDER MEDICARE PRO-**  
21 **GRAM**

22 **SEC. 201. ESTABLISHMENT OF ANNUAL LIMITS ON OUT-**  
23 **LAYS.**

24 Not later than April 15 of each year (beginning with  
25 1996), Congress shall in the concurrent resolution on the

1 budget for the fiscal year beginning on the following Octo-  
2 ber 1 establish a limit on total outlays to be made under  
3 the medicare program for the fiscal year.

4 **SEC. 202. ENFORCEMENT OF LIMITS THROUGH SEQUES-**  
5 **TRATION.**

6 (a) IN GENERAL.—Part C of the Balanced Budget  
7 and Emergency Deficit Control Act of 1985 (2 U.S.C. 900  
8 et seq.) is amended by inserting after section 252 the fol-  
9 lowing new section:

10 **“SEC. 252A. SEQUESTRATION WITH RESPECT TO MEDICARE.**

11 “(a) SEQUESTRATION.—If, with respect to a fiscal  
12 year (beginning with fiscal year 1997), Congress has not  
13 enacted a joint resolution under section 103(b) of the  
14 Commission to Save Medicare Act of 1995 before the first  
15 day of the fiscal year, there shall be a sequestration to  
16 eliminate any budgetary excess in the medicare program  
17 as described in subsection (b).

18 “(b) ELIMINATING A BUDGETARY EXCESS.—

19 “(1) IN GENERAL.—Outlays under the medicare  
20 program shall be reduced during a fiscal year as  
21 provided by paragraph (2), as necessary to eliminate  
22 any amount by which estimated outlays under the  
23 program in the year exceed the limit for such out-  
24 lays established for the year by Congress pursuant

1 to section 201 of the Commission to Save Medicare  
2 Act of 1995.

3 “(2) REDUCTIONS DESCRIBED.—In carrying  
4 out paragraph (1), the President shall—

5 “(A) reduce payments made under the  
6 medicare program by a uniform percentage suf-  
7 ficient to reduce 50 percent of the amount de-  
8 scribed in paragraph (1); and

9 “(B) increase premiums, deductibles,  
10 copayments, and coinsurance required to be  
11 paid under the program by a uniform percent-  
12 age sufficient to reduce 50 percent of the  
13 amount described in paragraph (1).

14 “(c) PART-YEAR APPROPRIATIONS AND OMB ESTI-  
15 MATES.—Paragraphs (4) and (7) of section 251(a) shall  
16 apply to sequestration of amounts under this section in  
17 the same manner as those paragraphs apply to discre-  
18 tionary appropriations and sequestrations under that sec-  
19 tion.

20 “(d) COORDINATION WITH OTHER SEQUESTRA-  
21 TION.—

22 “(1) IN GENERAL.—Reductions under sub-  
23 section (b) for a fiscal year shall supersede any re-  
24 duction otherwise made under section 252 or 253.

1           “(2) REPORTS.—On the dates specified in sec-  
2           tion 254(a), OMB and CBO shall issue preview, up-  
3           date, and final reports on medicare sequestration  
4           under this section. Such reports shall specify—

5                   “(A) the estimated amount described in  
6                   subsection (b)(1) for the fiscal year;

7                   “(B) the estimated uniform percentage de-  
8                   scribed in subsection (b)(2)(A) of the fiscal  
9                   year; and

10                  “(C) the estimated uniform percentage de-  
11                  scribed in subsection (b)(2)(B) of the fiscal  
12                  year.

13           “(3) RULES FOR APPLICATION OF REDUC-  
14           TIONS.—The provisions of section 256(d) shall apply  
15           to reductions under this section.”.

16           (b) CLERICAL AMENDMENT.—The table of contents  
17           for part C of the Balanced Budget and Emergency Deficit  
18           Control Act of 1985 (2 U.S.C. 900 et seq.) is amended  
19           by inserting after the item relating to section 252 the fol-  
20           lowing:

          “Sec. 252A. Sequestration with respect to medicare.”.

○